

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

UCHECHI LOUD,

Defendant - Appellant.

No. 04-30381

D.C. No. CR-04-00017-DWM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

Uchechi Loud appeals the district court's judgment imposing a sentence of 12 months and one day following his guilty-plea conviction for conspiracy to

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

possess counterfeit security, in violation of 18 U.S.C. §§ 513(a) & 371. We have jurisdiction pursuant to 28 U.S.C. § 1291.

Loud contends that the district court violated his Sixth Amendment rights when it ordered restitution. This claim is foreclosed by *United States v. Bussell*, 414 F.3d 1048, 1060 (9th Cir. 2005) (stating that district court orders of restitution are unaffected by *United States v. Booker*, 125 S. Ct. 738 (2005)).

Because appellant was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand to the sentencing court for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). *See United States v. Moreno-Hernandez*, 419 F.3d 906, 915-16 (9th Cir. 2005).

REMANDED.